

09-1872-cv

Flame v. Primera Maritime (Hellas) Limited

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

Rulings by summary order do not have precedential effect. Citation to summary orders filed after January 1, 2007, is permitted and is governed by this court's Local Rule 32.1 and Federal Rule of Appellate Procedure 32.1. In a brief or other paper in which litigant cites a summary order, in each paragraph in which a citation appears, at least one citation must either be to the Federal Appendix or be accompanied by the notation: "(summary order)." A party citing a summary order must serve a copy of that summary order together with the paper in which the summary order is cited on any party not represented by counsel unless the summary order is available in an electronic database which is publicly accessible without payment of fee (such as the database available at <http://www.ca2.uscourts.gov/>). If no copy is served by reason of the availability of the order on such a database, the citation must include reference to that database and the docket number of the case in which the order was entered.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 21st day of December, two thousand nine.

Present: GUIDO CALABRESI
JOSÉ A. CABRANES,
BARRINGTON D. PARKER,
Circuit Judges.

FLAME S.A.,

Plaintiff-Appellant,

v.

No. 09-1872-cv

PRIMERA MARITIME (HELLAS) LIMITED,

Defendant-Appellee.

FOR APPELLANT:

WILLIAM ROBERT BENNETT (Matthew J. Cowan, *on the brief*), Bennett, Giuliano, McDonnell, & Perrone, LLP, New York, NY.

FOR APPELLEE:

JACK A. GREENBAUM, Blank Rome LLP, New
York, NY.

Appeal from the United States District Court for the Southern District of New York (Richard M. Berman, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the order of the United States District Court for the Southern District of New York be **VACATED** and **REMANDED**.

Plaintiff Flame S.A. appeals from a March 19, 2009 order of the District Court. While this appeal was *sub judice*, we decided *Shipping Corp. of India Ltd. v. Jaldhi Overseas Pte Ltd.*, Nos. 08-3477-cv(L), 08-3758-cv(XAP), ___ F.3d ___, 2009 WL 3319675 (2d Cir. Oct. 16, 2009), in which we overruled *Winter Storm Shipping, Ltd. v. TPI*, 310 F.3d 263 (2d Cir. 2002), and held that electronic fund transfers being processed by intermediary banks are no longer subject to attachment under Rule B. In another recent decision, *Hawknet, Ltd. v. Overseas Shipping Agencies*, No. 09-2128-cv, ___ F.3d ___, 2009 WL 3790654 (2d Cir. Nov. 13, 2009), we held that our decision in *Shipping Corp. of India* applies retroactively. Accordingly, we **VACATE** the District Court's order and **REMAND** the matter to the District Court with instructions to enter an order to show cause why it should not dismiss the complaint for lack of personal jurisdiction in light of these recent decisions.

For the Court
Catherine O'Hagan Wolfe, Clerk

By: _____